REMARKS/ARGUMENTS

Claims 1, 3, 5-37, 39-41, 43-52, 54-56, 58-63, 65 and 67-92 are currently pending in the application.

Applicants respectfully request a three-month extension of time to extend the due date from May 27, 2009 to August 27, 2009. This response is also being filed with a Request for Continued Examination. A credit card authorization for the required fees is being submitted herewith. The Commissioner is hereby authorized to charge any additional fees, or credit any refunds, to Chalker Flores, LLP's Deposit Account No. 50-4863.

Claims 1, 3, 5-37, 39-41, 43-52, 54-56, 58-63, 65 and 67-92 were rejected in the Office Action mailed February 27, 2009 (hereinafter referred to as "Office Action"). In view of the following remarks and amendments, applicants respectfully request a timely Notice of Allowance be issued in this case.

Response to Amendments/Arguments

The Office Action stated the "applicant focuses on labels rather than functionality of Kelsey's disclosure: '[spatially] varying' (rather than 'a time-varying')" and that "Kelsey's disclosure [meets] the limitation of 'a time-varying signal'." Applicant respectfully disagrees. (page 2-line 19-page 3, line 4).

Before the Kelsey's card is swiped through the magnetic reader heads, the information stored on the magnetic stripe is fixed or static such that the magnetic signal for each track varies along the length of the magnetic stripe. As a result, the magnetic signal generated by the card is spatially varying. When the magnetic stripe is swiped through the magnetic reader heads, the signal generated by the card does not change. The magnetic reader heads read the static signal from the magnetic stripe one "bit" at a time as the magnetic stripe is swiped through the magnetic reader heads, but that does not change the signal generated by the card to a time-varying signal. The signal generated by the card is fixed.

Instead, the spatially-varying magnetic signal on the card induces a time-varying magnetic signal in the magnetic reader heads during the swiping process. As a result, it is the magnetic reader heads that generate a time-varying magnetic signal during the swiping process, not the magnetic stripe of on the card. Accordingly, applicant respectfully submits that Kelsey's magnetic stripe does not "generate a time-varying magnetic signal when the one or more induction coils and the magnetic stripe are activated by the processor as recited in claims 1, 31, 46 and 60.

Claim Rejections under 35 U.S.C. § 103(a)

Claims 1, 3, 5, 9, 11, 14-37, 39-41, 43-52, 54-55, 58-63, 65, 67, 71, 73, 76-83 and 84-92 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,907,142 to Kelsey in view of U.S. Patent No. 6,547,130 to Shen or, in alternative, U.S. Patent No. 6,811,082 to Wong, and further in view of the "Smart Cards" article by Kisner. In addition, claims 23 and 85 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Kelsey in view of Shen or, in alternative, Wong, and Kisner and further in view of U.S. Publication No. 20020194476 to Lewis. Claims 24 and 86 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Kelsey in view of Shen or, in alternative, Wong, and further in view of U.S. Patent No. 6,434,403 to Ausems. Claims 25 and 87 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Kelsey in view of Shen or, in alternative, Wong, and Kisner and further in view of U.S. Publication No. 20030046228 to Berney. In addition, claims 6 and 68 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Kelsey in view of Shen or, in alternative, Wong, and Kisner and further in view of U.S. Patent No. 5,168,275 to Harrson. Moreover, claims 7 and 69 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Kelsey in view of Shen or, in alternative, Wong, and Kisner and further in view of U.S. Patent No. 6,169,929 to Izzo. Furthermore, claims 12-13 and 74-75 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Kelsey in view of Shen or, in alternative, Wong, and Kisner and further in view of U.S. Patent No. 5,040,223 to Kamiya. Claims 17, 19-20, 44, 59, 61, 79 and 82 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Kelsey in view of Shen or, in alternative, Wong, and Kisner and further in view of U.S. Patent No. 7,046,746 to Keaney. Finally, claims 8, 10, 24, 70, 72 and 82 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Kelsey in view of Shen or, in alternative, Wong, and Kisner and further in view of U.S. Patent No. 5,943,624 to Fox and U.S. Patent No. 6,507,130 to Thuringer. Applicant respectfully submits that claims 1, 3, 5-37, 39-41, 43-52, 54-56, 58-63, 65 and 67-92, as amended, are patentable over the cited references for at least the reasons described below.

Claims 1, 31, 46 and 60

In order to establish a prima facie case of obviousness, the prior art or combined references must teach or suggest all the claim limitations. MPEP § 2143; *In re Vacek*, 947 F.2d 488 (Fed. Cir. 1991). With respect to claims 1, 31, 46 and 60, as amended, applicant respectfully submits that Kelsey, Shen, Wong and Kisner, either alone or in combination, do not disclose, teach or suggest "a control circuit disposed within the substrate that is connected to the one or more induction coils and ***generates a time-varying magnetic signal*** via the one or more induction coils and the magnetic stripe" when activated "***that is received by a magnetic stripe reader in close proximity to the magnetic field generator without swiping the magnetic stripe through the magnetic***

stripe reader or inserting the magnetic stripe into the magnetic stripe reader" as recited in claims 1, 31, 46 and 60, as amended.

The Office Action indicated that "Kelsey does not disclose generating a time-varying magnetic signal without swiping the magnetic stripe through a magnetic stripe reader." (page 5, lines 17-18). Applicant agrees.

The Office Action indicated that "Kisner discloses generating a time-varying magnetic signal without swiping the magnetic stripe through a magnetic stripe reader." (page 5, lines 19-20). Applicant respectfully disagrees.

Kisner states "Smart cards differ from credit cards in using onboard memory chips and microprocessors or microcontrollers instead of magnetic strips." (page 1, "Overview", second sentence). As a result, the "contactless smart cards" in Kisner do not generate magnetic signals. Instead, they radio frequency signals. (page 3, "Interface Types of Chip Cards"). Moreover, unlike smart cards, existing magnetic stripe readers and magnetic stripe cards do not use bi-directional handshaking protocols. (page 4, "Horizontal standards", Figure 5). As a result, Kisner cannot cure the deficiencies of Kelsey. Accordingly, applicant respectfully submits that Kisner does not disclose, teach or suggest "***generat[ing] a time-varying magnetic signal*** via the one or more induction coils and the magnetic stripe" when activated "***that is received by a magnetic stripe reader in close proximity to the magnetic field generator without swiping the magnetic stripe through the magnetic stripe reader or inserting the magnetic stripe into the magnetic stripe reader***" as recited in claims 1, 31, 46 and 60, as amended.

The Office Action also indicated that "Wong discloses generating a time-varying magnetic signal without swiping the magnetic stripe through a magnetic stripe reader." (page 6, lines 4-5). Applicant respectfully disagrees.

Applicant respectfully submits that Wong supports the above interpretation of Kisner because the objects of Wong are, in part, to: (a) "link[] the attributes of smart cards to those of existing magnetic stripe card infrastructures" (col. 14, lines 33-36); (b) provide "a novel 'bridge' device and methodology that couple or link the world of the smart cards to that of the magnetic credit cards" (col. 15, lines 7-9); and (c) effectively transform any smart card "into an ordinary magnetic credit card . . . for use by any existing magnetic card reader" (col. 19, lines 55-57). Simply put, if the smart cards of Kisner could interface with existing magnetic card readers, there would have been no need for Wong's device.

In addition, applicant respectfully submits that Wong does not cure the deficiencies of Kelsey and Kisner because Wong's magnetic stripe is always inserted into the magnetic stripe reader:

> A contact switch 36 is also mounted on the bottom side of PCB 18 to wake up the microprocessor MMSB 38 when the smart card 30 is fully inserted into the slot 16 of the bottom casing 10. (col. 20, lines 35-39).
>
> In one preferred embodiment of the MSB, the merchant can simply swipe the thin section 12 (of FIG. 3) of the MSB through the magnetic card reader. Depending upon which direction the merchant is swiping the MSB through the magnetic card reader slot, either contact switch 44 or 46 will close. This closure is processed to generate the correct timing information to the MMSB 38 to ensure that the track 2 data will be reliably transmitted over to the reader head through the use of the magnetic stripe simulator 32. The transaction will then be put through to the existing magnetic card processing infrastructure like any conventional magnetic credit card. (col. 21, lines 56-67).
>
> In an alternate preferred embodiment of the MSB, the merchant can simply place the thin section 12 (of FIG. 3) of the MSB into the slot of the magnetic card reader from the top and approximately center it in the middle of the reader where the reader head is located. He then pushes one of the designated key buttons on the keypad 26 of the MSB to initiate the process of sending the data over to the magnetic card reader via the magnetic stripe simulator 22. (col. 22, lines 1-8).
>
> In either of the two preferred embodiments of the MSB described above, the merchant can "swipe" or "center and push button" the MSB several times just like he is handling an ordinary magnetic credit card. (col. 22, lines 9-12).
>
> Thereupon, presuming a successful system validation/authorization step, .rarw.(D)-- the credit card sized portion of the extension member 150 is inserted longitudinally into the ATM-type terminal slot to thereby complete the desired transaction as usual. Just prior to step (D), the smart card 130 may optionally remain in the slot 116, or preferably is removed by the card holder for safekeeping. For use with lateral, swipe-type readers, a slightly different but still few-step method is used. Following completion of the same steps (A) through (C) as shown in FIG. 6, and after receipt of the validation/authorization prompt, the user merely --(E).fwdarw. retracts the extension member 150 back to its fully retracted position (as shown and described in FIG. 7A) and then --(F)-- laterally swipes the exposed, lower portion of the extension member 150 through a

> conventional magnetic card reader to thereby complete the desired card-authorized transaction as usual. (col. 22, line 67-col. 23, line 15).
>
> As explained below, magnetic stripe simulator 132, now designated as the lateral magnetic stripe simulator, is used for the swiping motion type card readers, whereas the magnetic stripe simulator 152, now designated as the longitudinal magnetic stripe simulator, in conjunction with the contact switch 153 is used for the insertion type card readers. The AMSB is shown in its so-called normal position or state wherein it is operable for swipe-type usage as previously described. (col. 23, lines 36-44).
>
> After the card holder enters the PIN number via the keypad 126 and receives authentication to proceed on the LCD display 124, and possible audio prompts from the speaker 123 as well, he or she has a choice to make depending upon whether the swiping motion type magnetic card reader or the insertion type magnetic card reader is being used. For use with a swiping motion type reader, the cardholder has to remove the smart card and push the extension member 150 back to its original or normal position as was shown in FIG. 7A. In doing so, AMSB circuitry determines that the magnetic stripe simulator 132 is to be used. Additionally, contact switches 144 and 146 can also be used to implement the conventional swiping motion of the AMSB, as previously described. (col. 24, lines 3-16).
>
> For use with an insertion type reader, the cardholder can simply insert the fully extended portion 150A into the insertion slot of a card reader until it cannot go any further. In this case, the magnetic stripe simulator 152 will be used in conjunction with contact switch 153. Contact switch 153 in this case is tied electrically to contact switch 146 whereas contact switch 144 is no longer in use in this mode of operation. The function of contact switch is to alert the microprocessor in the AMSB that the magnetic stripe simulator is now in its proper position for the processor to transmit track 2 magnetic stripe data to the card reader via the magnetic stripe simulator 152. (col. 24, lines 17-28).

As a result, applicant respectfully submits that Wong does not disclose, teach or suggest "***generat[ing] a time-varying magnetic signal*** via the one or more induction coils and the magnetic stripe" when activated "***that is received by a magnetic stripe reader in close proximity to the magnetic field generator without swiping the magnetic stripe through the magnetic stripe reader or inserting the magnetic stripe into the magnetic stripe reader***" as recited in claims 1, 31, 46 and 60, as amended. Wong does not cure the deficiencies of Kelsey and Kisner.

In addition, the portion of Wong cited in the Office Action is part of the Summary and merely states that information is transferred from the smart card to the microprocessor of Wong's device for subsequent transmission "to the magnetic card reader for transaction processing." (col. 17, lines 21-25). This portion does not disclose how the information is transmitted to the magnetic card reader. Applicant respectfully submits that this small vague portion of Wong does not disclose generating a time-varying magnetic signal without swiping or inserting the magnetic stripe into the magnetic stripe reader because such an interpretation would contradict the numerous descriptions of how the information is transmitted in the detailed description. (see the portions of Wong cited above).

Moreover, applicant respectfully submits that it would not be obvious to modify the cited references to generate a time-varying magnetic signal without swiping the magnetic stripe through a magnetic stripe reader or inserting the magnetic stripe into the magnetic stripe reader because such a modification "would change the principle of operation of the prior art invention being modified" (MPEP § 2143.01 (VI)). As a result, "the teachings of the references are not sufficient to render the claims prima facie obvious" (MPEP § 2143.01 (VI)).

For all the foregoing reasons, applicant respectfully submits that claims 1, 31, 46 and 60 are, therefore, allowable under 35 U.S.C. § 103(a). Accordingly, applicant respectfully requests that the rejection of claims 1, 31, 46 and 60 be withdrawn.

Claims 3, 5-30, 32-37, 39-41, 43-45, 47-52, 54-56, 58-59, 61-63 and 65-92

Once an independent claim is found to be non-obvious under 35 U.S.C. § 103, then any claim which depends from that independent claim is also non-obvious. MPEP § 2143.03; *In re Fine*, 837 F.2d 1071 (Fed. Cir. 1988). Applicant respectfully submits that claims 3, 5-30, 32-37, 39-41, 43-45, 47-52, 54-56, 58-59, 61-63, 65 and 67-92 depend from claims 1, 31, 46 and 60, as amended, which are allowable for the reasons stated above, and further distinguish over the cited references. Claims 3, 5-30, 32-37, 39-41, 43-45, 47-52, 54-56, 58-59, 61-63, 65 and 67-92 are, therefore, allowable under 35 U.S.C. § 103(a). Accordingly, applicant respectfully requests that the rejection of claims 3, 5-30, 32-37, 39-41, 43-45, 47-52, 54-56, 58-59, 61-63, 65 and 67-92 be withdrawn.

Conclusion

For the reasons set forth above, applicants respectfully request reconsideration by the examiner and withdrawal of the rejections. Applicants submit that claims 1, 3, 5-37, 39-41, 43-52, 54-56, 58-63, 65 and 67-92, as amended, are fully patentable. Applicants respectfully request that a timely Notice of Allowance be issued in this case.

If the examiner has any questions or comments, or if further clarification is required, it is requested that the examiner contact the undersigned at the telephone number listed below.

Date: August 27, 2009

Respectfully submitted,
CHALKER FLORES, LLP

By ______________________
Daniel J. Chalker
Reg. No. 40,552
Tel.: (214) 866-0001
Fax: (214) 866-0010

2711 LBJ Frwy, Suite 1036
Dallas, Texas 75234